

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:11-CT-3052-FL

DUNCAN G. AINSWORTH,

Plaintiff,

v.

ROBERT LEWIS; ALVIN W.  
KELLER; STEVE BAILEY; DAN  
LILLY; RICKY ANDERSON; BETTY  
BROWN; OLIVER MUHAMMAD;  
and STEVE ENLOE,

Defendants.

ORDER

This matter is before the court on plaintiff's motion for voluntary dismissal (DE # 12). An action may be dismissed voluntarily by plaintiff without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on the plaintiff's request except upon an order of the court. See Fed. R. Civ. P. 41(a)(2). At this point, defendants have not been served, nor have they filed any responsive pleadings. Accordingly, plaintiff's motion for voluntary dismissal pursuant to Rule 41(a)(1) is GRANTED, and the action is DISMISSED without prejudice. Additionally, the court finds it appropriate to relieve plaintiff from having to pay the filing fee in this matter, and this court's March 18, 2011 order is vacated.

SO ORDERED, this the 21st day of July, 2011.



LOUISE W. FLANAGAN  
Chief United States District Judge